REMARKS

I. Introduction

Claims 1-3, 17, 19, and 20 are active and pending in the present application. Claims 5-9, 11, 12, 14, 15 and 18 having been withdrawn from further consideration as being drawn to nonelected inventions. Claims 19 and 20 stand rejected under 35 USC §101 as directed to non-statutory subject matter. Claims 1-3, 17, 19, and 20 stand rejected under 35 USC §103 as unpatentable over "*An East Coast View: The Right Price for PJM*" (hereafter Thomas) in view of "*Price Dynamics in a Network of Decentralized Power Markets*" (hereafter DeVany). In response, Applicants have amended claims 19 and 20 and provide the following remarks.

II. Rejections Under 35 U.S.C. §101

Claims 19 and 20 have been amended as suggested by the Examiner. Applicants urge that no new matter was improperly introduced by way of these claim changes. Reconsideration and with withdrawal of the rejection under 35 USC 101 of claims 19 and 20 are respectfully requested.

III. Rejections Under 35 U.S.C. §103

Claims 1-3, 17, 19 and 20 stand rejected under 35 U.S.C. §103 as unpatentable over Thomas in view of DeVany. The Examiner contends that Thomas teaches substantially the subject matter as recited in the claims but admits that Thomas does not teach modeling using "a linear combination of congestion prices for congestible lines in the network. However, the Examiner asserts that DeVany teaches such a feature and concludes that it would have been obvious to combine the two references "simply to provide the most accurate modeling available in order to determine pricing with the lowest margin of error."

Applicants respectfully disagree with the Examiner's characterization of what the different references teach and urge that the references, either individually or in combination, do not disclose all the features recited in the claims. In particular, claim 1 recites "producing a combination of price risk instruments" in a way that reduces the effect of the congestion prices on the locational prices. Both references describe the general knowledge that physical congestion on the electrical power distribution system plays a role in locational prices or locational marginal pricing. Similarly, both references describe this effect and then continue to describe techniques for how this effect might be modeled with DeVany providing much more detail than Thomas. The motivation for combination that the Examiner is, itself, an indication of what the references teach. Because optimizing a model would reduce the margin of error in estimating prices.

However, claim 1 requires more. In addition to modeling the locational prices, the method includes an additional feature of "producing a combination of risk instruments." The two references are silent as to this feature; it is sufficient for both of them that they could model the locational prices. In contrast, the present invention combines risk instruments specifically in a way that reduces the effect of the congestion prices on the locational prices. In other words, the model is just that – a model and uncertainty exists about congestion and its effects; thus, instruments whose value relates to this risks can be combined in such a way as to reduce the effect that congestion prices have on locational prices. Applicants urge that neither reference provides such a teaching or suggestion and, therefore, the combination of references does not teach or suggest all the features recited in claim 1. Accordingly, reconsideration and withdrawal of the rejection under 35 USC 103 of claim 1, and its dependent claims 2 and 3, are respectfully requested. Claim 17 recites substantially the same features as claim 1 and reconsideration and withdrawal of the rejection of claim 17 are requested for at least the reasons just described.

Claim 19 differs from claim 1 in some ways but is similar in that it recites a portfolio of instruments being generated as well that has particular characteristics relating to the physical limitations of the delivery network and spot prices. Applicants urge that neither reference teaches or suggests generating a portfolio of risk instruments wherein membership within that portfolio depends on the factors **z, y, P, and A** as recited in claim 19. Thus, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 USC 103 of claims 19 and 20.

IV. The Date of the DeVany reference

Applicants are able to claim priority at least back to March 11, 1999 for the claimed subject matter. It is noted that the publication date for the DeVany article is simply "March 1999". Applicants solicit the Examiners assistance in determining, if it can be determined, whether the actual publication date of this article was before the priority date. Any help in this matter would be greatly appreciated.

V. Conclusion

Having fully and completely responded to the Office Action, Applicants submit that all of the claims are now in condition for allowance, an indication of which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper,

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including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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